

# ROUNDTABLE ON COMPLIANCE 2021

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## Capital Markets and the New Normal - Reshaping the Future of Compliance

KEY TAKEAWAYS



## PANEL SESSION 1: GOVERNANCE AND REGULATORY LANDSCAPE IN THE NEW NORMAL

During the Covid-19 pandemic, we have seen rapid digital transformation amongst financial institutions.

### IMPACT OF DIGITALISATION

- The compliance function needs to understand how technology works, how it fits within businesses, the potential risks and how compliance manages the risks.
- Compliance also needs to rethink its approach and leverage on RegTech solutions. However, this does not mean that responsibilities can be absolved. The board of directors and senior management of a firm shall remain accountable.
- There is a greater requirement for compliance officers to communicate with their board of directors and senior management on technology issues. There may be a temptation to adopt the best and newest technology, however, businesses need to understand the technology that works best for them.
- Any RegTech tool is only as good as the employee who uses it. Hence, training is important for employees that will be using RegTech so that they understand what the tool can be used for and what are its limitations.
- Industry must provide feedback to technology providers to facilitate further enhancements. In some organisations, there is a dedicated technology compliance team responsible for overseeing the assessment of technology related to compliance across the organisation.
- Subject matter expertise amongst compliance officers remains a key requirement in keeping with the evolving digitalisation journey and enhancements in regulatory requirements.

### RISKS BROUGHT ABOUT BY DIGITALISATION

- Digitalisation has increased transaction volumes and this has presented challenges to compliance officers.
- There is greater reliance by financial services organisations to conduct marketing through social media sites and digital platforms.
- Compliance needs to understand these new risks and use social media monitoring tools to monitor compliance risks (e.g. to detect mis-selling).

### COVID-19 MEASURES AND THE NEW NORMAL

- Despite the Covid-19 measures and restrictions, it has been positive for the Malaysian capital markets in that the regulators have been facilitative and the capital markets services are recognised as essential services. Furthermore, regulatory authorities have also provided flexibility in the regulatory reporting requirements e.g. (i) for issuers in the submission of auditors' report, regulatory submissions and interim reports, and (ii) for licensed representatives in the CPE and training requirements.
- Covid-19 measures have also redefined how Know-Your-Client ("KYC") is being conducted. For instance, it may be difficult to obtain physical copies of bank statements because of movement restrictions. Therefore, compliance officers need to adapt to the changes set by the regulator as digital KYC has become the norm.
- Conduct risk issues need to be relooked as more people are working from home. For instance, firms could place restrictions on certain social media sites that may introduce vulnerabilities.
- Working from home brings about new risks like cybersecurity risks, resulting in companies having to enhance their cybersecurity protections. For example, by checking on personal laptops when employees return to office and employ ethical hackers to conduct penetration testing.
- As technology risk governance and data governance become more significant, regulatory requirements will also evolve to address these issues.
- Brokers' services which had been outsourced – e.g., printing of contract notes and accounting were impacted by the Covid-19 restrictions. Brokers realised that when outsourced service providers could not perform, it will impact performance of the brokers. Vendor management and managing outsourcing risks have become more pronounced.
- Digitalisation could bring about the risk of hacking on communications platforms (e.g., video conferencing platforms). Technology risk management is key. Educating employees is essential to reducing hacking risks.
- Training becomes more relevant to the compliance community as it will continuously enhance their competencies. There is a need for greater reliance on online learning because of Covid-19 and budget restrictions.

## PANEL 2: ACCELERATING DIGITALISATION FOR BUSINESS INNOVATION

### INCREASING DIGITALISATION

- Online trading has been practiced by most brokers in Malaysia prior to the pandemic, however, it is mostly used as a tool, rather than as a standalone business.
- It took a pandemic to show that digital trading was a key way of doing business.
- Algo-trading has been happening already. Even presentation of research reports is now digital.
- The way of doing business within the capital markets has fundamentally changed.
- An industry participant posed the question whether regulators will be nimble enough to work with the players? Or will the players need to work around existing regulations?
- With digitalisation, there is a corresponding need for compliance transformation.
- There is a need for Malaysian capital market firms to move together at a faster pace in digital transformation in order to be competitive with neighbouring countries (e.g., China and Hong Kong). The regulators' needs play a pivotal role in allowing room for financial institutions to experiment, i.e., they encourage participation in sandbox as opposed to handholding.
- The Securities Commission Malaysia (SC) responded that it had recently launched the Capital Markets 3 Masterplan which discusses the utilisation of RegTech and SupTech. Regulators are supportive of the RegTech adoption by the industry.
- The SC is also looking at collaborative platforms to facilitate innovation – e.g., hackathons.
- In terms of product innovation, companies can have open conversations with regulators to see if they can get exemptions or variations to facilitate new product offerings (so long as key regulatory concerns such as investor interests are safeguarded).

### COMPLIANCE TRANSFORMATION

- The mindset of compliance officers has to change. For instance, there is a need to move away from saying “no” to projects just because it has not been done previously.
- Compliance officers need to leverage more on RegTech – e.g., digitising forms and leveraging on digital workflows, even for core compliance functions such as managing restricted lists and personal account dealings.
- Compliance officers need to be proactive, not just reactive. Whenever there are new products being introduced by the company, compliance officers need to address new regulatory concerns and ensure that these are addressed before these new products are launched.
- Compliance officers need to engage with business units regularly and they should encourage business units to conduct self-regulation – e.g., self-assessment of all business units. Compliance officers also need to look at themselves as business enablers.
- Compliance can be seen as a comparative advantage, rather than a cost centre. Some companies celebrate the positive role of supportive compliance for the business and in promoting product innovation. The way forward is looking at compliance as a strategic partner where compliance objectives are aligned to business goals.
- Tone from the top is important in driving good compliance across the whole organisation. Organisations must identify values that the firm cannot compromise with, and the framework within which the business operates.
- Business and other functions need to work closely with compliance officers and work together to address risks that include regulatory risks.



## PANEL 3: RESHAPING TALENTS AND THE EVOLUTION OF COMPLIANCE CULTURE

- The Covid-19 pandemic has sped up the process of identifying companies lagging behind in technology innovation. Companies that have not kept up with the latest in technology need to put in heightened efforts to catch up in areas such as facilitating working from home structures, conducting virtual meetings and effecting online payments.
- In 2020, market volume within the capital markets had gone up significantly and tested the system. The system did not fail, and proven that it could cope with unprecedented volume.
- The panel discussed the increasing focus on self-regulation by industry groups and also by individual financial institutions. Some examples of leveraging on technology include the process of on-boarding of licensed persons and even the conduct of licensing examinations.
- AMLA developments have redefined compliance in terms of processes that need to be set. Firms were also impacted by enforcement actions, which could result in hefty fines. There is also a risk of personal liability.
- We have seen an evolution in the growing importance of compliance. There have also been shifts in regulatory focus where regulators are placing more focus on third party risks, risk culture and conduct risk.
- There has been a move from rule-based to principles-based regulations. The challenge is to build an organisation which is familiar with the new normal. This was not just an evolution of the compliance function per se, but also the evolution of the entire organisation. Directors of companies need to know what is happening within compliance to understand the impact of regulations on the firm.
- Policies, procedures and controls must be strengthened. Boards of directors and senior management need to have a sharper focus on compliance.
- The compliance function and its officers must understand business, and if they do not understand how business works, they will not be effective.
- One organisation pointed out that there is a greater role for an ethical culture – ethics and compliance are two sides of the same coin. The organisation shared that they had developed a department championing ethical culture in the organisation.
- Employees need to continue to upskill themselves with learning to foster self-discipline.
- Compliance culture becomes more important in present times and there is a need to inculcate an organisation-wide sound compliance culture. This means every employee has to have the habit and attitude to do the right thing all the time, rather than being driven by rules and regulations.
- The culture of blaming compliance whenever a mistake happens must be eradicated. The burden of compliance is on the entire organisation, and not just on the compliance function.
- The better approach is that when something goes wrong, the firm should conduct a root cause analysis to identify where the process crumbles, and not merely resort to blaming compliance.
- The following are the skillsets that are essential for compliance officers to be able to carry out their duties effectively and efficiently:
  - No Longer “Ticking the Box” – where you say there is a strict “no” or strict “yes”;
  - Innovative - Need to be innovative in order to guide the business functions on how to work within the regulatory framework. Compliance officers cannot merely be passive and expect zero breaches;
  - Collaborative - Must be able to function as a strategic partner, relationship manager with the regulator and at the same time as an advisor or facilitator to enhance business implementation;
  - Inter-disciplinary Knowledge. Must have deep knowledge of business in order to design an appropriate compliance programme;
  - Digitalisation – Need to design compliance programmes that are relevant and current (e.g., leverage on RegTech for trade surveillance). The compliance programme needs to cater and adapt to the changing business environment (e.g., when working from home becomes the new norm);

- Proactive/Solution Oriented – They are expected to anticipate compliance breaches or risks and this becomes a strategic advantage. Not just fault-finding, but finding solutions to address gaps to prevent compliance breaches (which can be costly);
- Network Building/Partnering with Strategic Partners in the Ecosystem (e.g. with other financial institutions such as banks);
- Agile – Must move fast, constantly learning and adapting quickly with strong focus on people and customers. Compliance is no longer about top-down regulatory compliance, but to also think about how to leverage on regulations to facilitate business;
- Communication and Writing Skills (which is a given) - The ability to interact with people and work together;
- Complex Problem-solving and Critical Thinking – Need to have the ability to apply regulations to real-life facts and situations. They should not view the rules as a tool to restrict business in companies;
- Tenacity & Perseverance – Must always stand on the right side and should not change stance when pressured..
- Creative and Innovative – Must think out of the box. Disruptive digital technologies/FinTech is going to stay and there should not be a “zero-risk” appetite towards disruption. Compliance officers must work hand in hand with innovators; and
- Compliance officers have a key role to play in terms of ESG risk management by companies.





The compliance function must be seen as part of the profit equation within any organisation.

Over last few years, especially during the pandemic, the fence between business and compliance has dissolved. Business units realised the critical need to seek advice and counsel from compliance. Everybody's focus is on creating more business opportunities for the company.

Thoughts articulated during the panel discussion resonates with SIDC. SIDC seeks inputs from the senior compliance leadership community to help the organisation in running its compliance programmes.



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